



## Emma Gargitter

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Emma practises in criminal, regulatory and public law. She combines an eye for detail with hard work, seeking always to provide informed but practical advice to her clients, and has a particular interest in cases which straddle the criminal and public law spheres.

Emma began practising in 2005, and for the first 5 years concentrated almost exclusively on criminal work. Those years allowed her to develop into a versatile advocate, with significant experience of prosecuting and defending before the criminal courts at all levels.

In recent years Emma has applied and expanded that experience in the fields of public and regulatory law. In particular Emma's recent work has focussed on public inquiries, judicial review, medical regulation and related inquest work. In 2014 Emma was appointed to the Attorney General's Panel of Counsel (C Panel), allowing her to accept work from all government departments.

Emma also has experience of advising corporate clients on issues of legal privilege as they arise in the criminal process, and acts as independent counsel advising law enforcement bodies in relation to the handling of privileged material seized during investigations.

Emma continues to accept instructions to act in relation to a variety of criminal cases, with particular emphasis on fraud and terrorism. She is a member of the CPS specialist Counter Terrorism Panel (level 3), and the Serious Crime and Fraud panels (level 2).

### **Crime**

Emma's criminal practice is focussed on the prosecution and defence of serious and complex cases. Her previous experience and attention to detail make her ideally suited to work on high-profile cases involving terrorism, and serious fraud. She is well-versed in all aspects of disclosure.

### **Terrorism**

- R v QQ (2020) Instructed by the CPS Counter Terrorism Division to prosecute the first case

involving breach of a Temporary Exclusion Order, imposed based on suspicion of involvement in terrorist-related activity abroad.

- R v HM and FAA (ongoing) Instructed by the CPS Counter Terrorism Division as junior prosecution counsel in a case involving allegations of the preparation of terrorist acts by the first defendant, and on the part of the second defendant a failure to report that preparation.
- R v JW (2018) Prosecution of an individual for stirring up racial hatred by posting far-right propaganda material on Facebook and other social media sites
- R v Hassane and others (2015-16) Second junior prosecution counsel in a trial of an IS-inspired plot to commit a terrorist murder or murders in London, using a firearm and ammunition. Press Link: [The Guardian](#)
- R v Ali and others, R v Girma and others (2007-08) Second junior counsel for the CPS Counter Terrorism Unit led by Max Hill QC, in a series of trials arising from the attempted London bombings of 21 July 2005. Ten defendants were convicted of assisting an offender and failing to disclose information about the bombers. Emma also appeared as junior in the Court of Appeal. Press Link: [BBC Case Report: Case Report](#)

## Fraud

- R v SM (2017) Successful prosecution of multiple counts of cheating the public revenue arising out of failures to declare capital gains on buy-to-let properties.
- Operation Hornet (2014-2016) Instructed for a large financial institution to advise on issues of third party and common interest privilege in providing material to the CPS. Press Link: [The Guardian](#)
- R v B (2011) Defending allegations of over £75k of benefit fraud. The trial involved detailed cross examination of the prosecution financial analyst.
- R v C and others (2009-2010) Prosecution junior led by Sir Derek Spencer QC in a Revenue and Customs Prosecutions Office 13 handed Tax Credit fraud. The fraud involved making of applications for tax credits using the details of fictitious and allegedly disabled children, as well as hijacked claimant identities.

## General Crime

Emma is an experienced jury advocate in cases involving violent offences. She is adept at questioning and cross-examining difficult witnesses in this context.

- R v C and others (2015-16) Successful defence of the first of five defendants for robbery and false imprisonment; the defendants were alleged to have tricked their way into the complainants' home by posing as police officers, making off with cash and valuable jewellery.
- R v F (2012) Successfully represented a defendant of good character charged with assaulting an acquaintance in a bar.
- R v K (2011) Instructed to represent a defendant charged with committing a robbery during the

London riots. Detailed pre-trial work led to the case being dropped prior to trial.

- **R v N (2009)** Successfully represented a defendant charged with affray where the Prosecution case consisted entirely of CCTV footage of the defendant using a nunchuku during a street fight.
- **R v A (2009)** Successful defence of a 16-year old of good character who had stabbed the complainant in the leg after an earlier confrontation. Week-long trial involved detailed cross examination of several civilian witnesses.

## **Regulatory & Professional Discipline**

Emma's background in criminal cases combined with extensive experience of more inquisitorial public inquiry work makes her particularly well-suited to appearing before professional disciplinary and regulatory tribunals. She has appeared in cases before the Nursing and Midwifery Council and the General Medical Council. She is familiar with the law and practice of regulatory tribunals and happy to accept instructions from professionals and regulatory bodies alike.

Emma also accepts instructions to represent professionals who find themselves designated 'Interested Persons' in inquests.

- **NMC v ED (2019)** Represented a nurse facing disciplinary charges arising out of an allegation that she had assaulted a patient in her care. The proceedings involved successfully resisting applications to rely on hearsay from absent witnesses, and detailed cross examination of witnesses in person and via video link.

## **Inquiries and Appellate Work**

Emma is an accomplished inquiry lawyer. She gained invaluable experience of all aspects of the law and practice of public inquiries during four years as junior counsel to the Al Sweady Inquiry between 2010 and 2014, and has continued to build on that experience with instructions to advise a prominent witness in receipt of a Maxwell letter from the Chilcott inquiry, and more recently as junior counsel to the Undercover Policing Inquiry.

With her extensive understanding of inquisitorial proceedings Emma also welcomes instructions in relation to inquests, and has experience of advising medical professionals designated as interested persons

## **Inquiries**

- **Undercover Policing Inquiry (ongoing)** Junior counsel to the Undercover Policing Inquiry.
- **Chilcot Inquiry/Iraq War Inquiry (2015)** Emma advised a former member of the Cabinet in connection with their response to a Maxwell letter (notification of intended criticism) issued by the inquiry prior to the publication of the report.

- **Al Sweady Inquiry (2010-2014)** Junior counsel to the Inquiry which considered allegations of unlawful killing and mistreatment of individuals detained by the British Army in Iraq in 2004. She was involved in every step of the Inquiry, including:
  - Advising on and carrying into effect the investigatory phase, including compliance with the procedural requirements of Articles 2&3 ECHR.
  - Advising on restriction orders including in relation to anonymity and other measures to protect the identity and/or personal information of witnesses.
  - Requesting and obtaining evidence, utilising rule 9 of the Inquiry Rules 2006 and section 21 of the Inquiries Act 2005 to issue written requests for statements and other evidence to potential witnesses.
  - Disclosure– locating, obtaining and disclosing relevant material, including sensitive information.
  - Providing advice generally on the procedures of a public inquiry, balancing the need for transparency, fairness and due process with the requirement to avoid unnecessary cost.
  - Questioning of witnesses during oral hearings.
  - Representing the Inquiry responding to an application for judicial review.
  - Report writing and the issuing of warning letters to those the subject of intended criticism.

## **Inquests**

- Inquest touching upon the death of KW (2019) Emma represented a nurse in this inquest which considered in particular how a nursing home patient had died in circumstances where the accounts of some of those present at the time of death had changed over time.
- Inquest touching upon the death of Sally Hodkin (2018): Emma represented a nurse designated an interested person during this inquest into the death of a woman stabbed by a patient who had absconded from a mental health unit. Press Link:[BBC](#)]

## **Judicial Review**

Since 2014, as a member of the Attorney General's C Panel, Emma has acted on behalf of the Home Office in relation to claims for judicial review of immigration decisions. Emma has experience both of advising and appearing in claims involving:

- Unlawful detention
- Challenges on Article 2 & 3 grounds, including in relation to Dublin Convention returns to third countries of those seeking asylum
- Challenges to decisions made pursuant to the Immigration Rules, including private and family

life claims, and the points-based system

- Challenges on Article 8 grounds

Emma has also advised in relation to the issuing of civil penalties to employers found to have employed illegal workers, and has experience of proceedings before the Special Immigration Appeals Commission.

## **Education**

MA (Hons) Cantab. – Law

## **Memberships**

Criminal Bar Association

Association of Regulatory and Disciplinary Lawyers

South Eastern Circuit

Lincoln's Inn